

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

NICOLSON et al.

Serial No.: 09/640,526

Filed: August 17, 2000

For: EXTENDED WEAR OPHTHALMIC LENS



Group Art Unit: 1714

Examiner: V. Jagannathan

1714

TRANSMITTAL LETTER

The Commissioner
for Patents and Trademarks
Washington, DC 20231

Dear Sir:

Transmitted herewith for filing are:

Supplemental Information Disclosure Statement A
Information Disclosure Statement and 1449 for A
Information Disclosure Statement and 1449 for B
Information Disclosure Statement and 1449 for C
Information Disclosure Statement and 1449 for D
Information Disclosure Statement and 1449 for E
Information Disclosure Statement and 1449 for F, G and H
Information Disclosure Statement and 1449 for I
Information Disclosure Statement Re: Related Patents
Information Disclosure Statement B&L's RD-677
Information Disclosure Statement Australian Defence and Cross-Claim.

RECEIVED
AUG 27 2001
TC 1700

The Commissioner is hereby authorized to charge payment of any fees associated with this submission or credit any overpayment to Deposit Account No. 500417, including any filing and processing fees under 37 CFR 1.17, as needed to ensure full consideration of the enclosed information.

In accordance with 37 CFR 1.17(p), please charge the fee of \$180.00 to Deposit Account No. 500417.

Respectfully submitted,
MCDERMOTT, WILL & EMERY

Kenneth L. Page
Registration No. 26,151

600 13th Street, N.W.
Washington, DC 20005-3096
(202) 756-8000 KLC:MWE
Date: August 22, 2001
Facsimile: (202) 756-8087

Docket No.: 22841-015

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

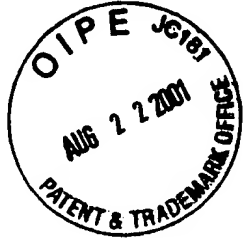
In re Application of

NICOLSON et al.

Serial No.: 09/640,526

Filed: August 17, 2000

For: EXTENDED WEAR OPHTHALMIC LENS



Group Art Unit: 1714

Examiner: V. Jagannathan

E.L.J.
8/28/01

#6

INFORMATION DISCLOSURE STATEMENT
SUPPLEMENTAL A

Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

RECEIVED
AUG 27 2001
TC 1700

In accordance with the provisions of 37 C.F.R. 1.56, 1.97 and 1.98, the attention of the Patent and Trademark Office is hereby directed to the following references that were listed on the PTO-1449 Form attached to INFORMATION DISCLOSURE STATEMENT - A.

This Information Disclosure Statement is being filed more than three months after the U.S. filing date AND after the mailing date of the first Office Action on the merits, but before the mailing date of a Final Rejection or Notice of Allowance.

In accordance with 37 CFR 1.17(p), please charge the fee of \$180.00 to Deposit Account No. 50014.

See fee on last cover page.

Tab (144), U.S. Patent No. 4,983,702

Mueller '702 is related to the preparation of polysiloxane-polyurethane rubbers made in the form of interpenetrating polymer networks. Such IPN's are shown in examples 45-48. Only one example, Example 45, describes a polymer which is a hydrogel. It is an IPN containing 14% water, very likely too low an amount to allow for ion permeability sufficient to achieve ophthalmic compatibility. Of the 32 polymer examples disclosed (the remaining 16 are prepolymers), 31 refer to silicone rubbers (non-hydrogels). No mention is made of water content or hydration prior to making any measurements. Mueller teaches very high Dk values. In Mueller, the materials for which Dk values are reported are almost pure silicone, have no water absorption and therefore do possess high Dk values. The material does not absorb enough water to provide a continuous ionperm phase and, therefore, would not be ophthalmically compatible. Furthermore, the degree of crosslinking present in the Example 45 polymer would present a high likelihood that the modulus of that material would exceed 3MPa.

A former CIBA Vision employee had written a note on this patent which read: "Applies to Alsacon.../702...broadly fits into cl. 1." That copy of the '702 Patent, which is from a former CIBA Vision employee, was located in Dr. P. Nicolson's Office during discovery in a lawsuit styled: *CIBA Vision Corporation v. Bausch and Lomb, Incorporated*, U.S. District Court for the Northern District of Georgia, Gainesville Division, Docket Civil No. 2:99-CV-034-WCO. However, the handwriting is not that of Dr. Nicolson. See, B&L's correspondence Remus to Cage dated July 11, 2000.

Further, it is noted that all members of the ALSACON family of materials, Examples A of the present patent application, are polyacrylates characterized as having, as the pre-polymer component, a polydimethylsiloxane (PDMS) moiety (oxyperm segment) capped off at each end with a diisocyanate to which are attached polyethylene oxide (PEO) groups, (ionperm segments) typically having a molecular weight of at least 400 Daltons each. Finally, the PEO terminal hydroxyl groups are methacrylate functionalized for either homo-polymerization or co-polymerization with other acrylic monomers. These prepolymer structures are called A-B-A block pre-polymers.

Tab 81, U.S. Patent No. 4,605,712

This patent covers soft silicone hydrogels and non-hydrogels, and discusses the option of surface modification to improve wettability of hydrophobic surfaces. Col 14, lines 55-59.

Tab 85, U.S. Patent No. 4,632,844

This patent discloses the plasma surface modification of rigid lenses, including the nature of the hydrocarbon plasma monomer used - olefins and oxygen. In the present invention, methane and air are disclosed as the hydrocarbon monomer used in the plasma process.

Tab 98, U.S. Patent No. 4,711,943

This patent covers hydrophilic siloxane polymers incorporating TRIS-like monomers and TRIS dimer bifunctional monomers having an amide linkage between the double bond functionality and the siloxane portion and thus describes these monomers as hydrophilic. The exemplified polymer hydrogels all have Dk values below 53. The specification discloses the criteria: Water content about 15-60%; High oxygen permeability $>25 \times 10^{-10}$; Tear strength $>1.0 \text{ gm/mm}^2$; Elongation $\geq 80\%$; Wettable, and Minimal protein deposits. See Col's 3 and 4. No surface modification examples are presented. Wettability is assessed by receding contact angles. Values less than that obtained on PMMA polymers are stated as one of the objects of the invention (col 3, line 59 et seq.) The '943 Patent discloses prior art surface modification of siloxane polymer contact lenses by Gesser US Patent No. 3,925,178 by employing an electrical discharge and attachment of polar radicals, but states that such treatments are short lived. See Col. 2. lines 59-66.

* * * * *

No representation is made or intended that more relevant information does not exist or that the order of presentation of the information in any way reflects their relative pertinence. The Patent Owner respectfully requests that the cited information be expressly considered during the prosecution of the above-captioned application. and that the cited information be made of record therein and, if not prohibited by law, appear among the "References Cited" on any patent to issue therefrom.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



Kenneth L. Cage
Registration No. 26,151

600 13th Street, N.W.
Washington, DC 20005-3096
(202) 756-8000 KLC:DB
Date: August 22, 2001
Facsimile: (202) 756-8087